

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SABIRE WILSON

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

PHOENIX HOUSE

SIDNEY HARGROVE (Unit Director)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Rev. 05/2007

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 11611
DATE FILED: 11/6/11

**AMENDED
COMPLAINT**

Docket No. 10-CV-7364 (DLC)

Jury Trial: Yes No
(check one)

PRO SE OFFICE *pm*

Defendant No. 1 Name Phoenix House
 Street Address 164 West 74th Street
 County, City New York County, New York
 State & Zip Code New York, 10018
 Telephone Number _____

Defendant No. 2 Name Sidney Hargrove (Unit Director)
 Street Address Phoenix House, 164 West 74th Street
 County, City New York County, New York
 State & Zip Code New York, 10018
 Telephone Number _____

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

Federal Questions Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? Violation and Discrimination of U.S. Constitution
Amendment IVX Section 1 Equal Protection (Sex or Sexual Orientation)

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship N/A
 Defendant(s) state(s) of citizenship N/A

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? Phoenix House, 50 Jay St. Facility on the Induction Unit

B. What date and approximate time did the events giving rise to your claim(s) occur? On or around 01-05-09 to 01-18-09

C. Facts: On 3/27/08, I was arrested for a possession of narcotics in New York City, N.Y. I took a plea with the D.A. to go into a therapeutic in-patient substance abuse treatment center. I was mandated by Manhattan DTAP (Drug Treatment Alternative to Prison) by Ms. Danelle Orlando of the N.Y.C. District Attorney's office. On 12/23/08, I arrived at a 1:00 p.m. scheduled appointment at the Phoenix House Admissions office located at 2nd Avenue in East Harlem, N.Y. I was interviewed by a Phoenix House Admissions counselor. Upon my interview, I made the counselor aware that I was a male-female transgender and that I was a mandated client of Manhattan DTAP. He then contacted Ms. Danielle Orlando for approval of admission to Phoenix House. After receiving permission and mandation instructions from Ms. Orlando, he then called the facility in which I was going (50 Jay St. induction unit) and made them aware of my status as a transgender and DTAP mandation.

CONTINUED ON ATTACHMENT

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Sustained severe mental trauma from the discriminatory actions displayed by the defendant which includes but not limited to: depression, low self-esteem, paranoia. Also a relapse in my addiction which led to another misdemeanor. Most of all, I am now serving a mandatory sentence of 2 1/2 years in N.Y.S.D.O.C., and a mandatory 1 1/2 years of post-release supervision with N.Y.S. Division of Parole, which is clear I lost my liberty.

He then explained to me that because I am biologically male with male genitals, I would have to still sleep in a male room and use the male bathroom facilities. I told him this is O.K. as long as I was still allowed to dress and be in the appearance of female. At that time the admission was completed and I was transported to 50 Jay St. induction unit. I began to make progress in treatment without incident. Due to this, counselors saw fit that I become Resident Structure Senior Coordinator.

While at Phoenix House I spoke with a Senior Counselor about a group she was about to start where the male and female clients were separated to be able to discuss personal issues of gender that occur during addiction. She then told me that I would be able to attend the female group due to my identification issues. When the group started there were some females whom had a problem with me being in the group and complained. I was then asked to leave the group. I spoke with the counselor and was told to speak with the Director of the unit Defendant #2 Mr. Hargrove because he made the decision to ask me to leave the group. I then spoke with Mr. Hargrove about why I was asked to leave the group. Mr. Hargrove then stated that the counselor had no right to telling me that I may attend the group in the first place because I am not a female and I should be in a male group.

After the group ended I spoke with the female residents and found out that there were only 2 or 3 female who had an issue with me attending the group because they never experienced being around a transgender before me. At that point I explained to them along with the other females about my lifestyle and the level of identification and they agreed to allow me to attend the next group. I then went to the Sr. Counselor and explained to her the discussion I had with the females and their agreement of me attending the next group. She then stated to me that I needed to speak with Mr. Hargrove because he has the last say in the matter. After the issues were resolved with the females and their agreement for me to attend I was still told by Mr. Hargrove that I could not attend the female group that I had to attend the male group.

After this situation Mr. Hargrove had a case conference with the staff and decided to make recommendations for me to be referred

elsewhere. His reasons being that my needs can not be met at Phoenix House because of my transgender status. Also he contacted the D.A. Ms. Orlando and reported this to her and it was stated that if another facility was not found by my next court appearance that I would be discharged back into the hands of the court on that date.

At the point where I noticed that I was not being sent into main treatment phase. I asked my counselor what was going on and why. Another Senior Counselor was present in the office when I asked this and asked me to leave the office for a second so that he could talk to the other counselors. I was then called to a private area with the Sr. Counselor and the Unit Social Worker. I was told that I was not supposed to have been told this but as a counselor he feels I have the right to know what's going on with my treatment and I should not be left in the blue. This is when I found out about the situation at hand.

The counselor then explained to me that it was up to the Social Worker present to find a facility "suitable" for me within the next week or so. At that point the Social Worker expressed that it was hard for her to make referrals for me due to the many diagnosis I had. She then asked if I could assist her in finding a place for me by my next court date so that I would not have to be sent back to jail.

After getting this information I then went to run the scheduled community meeting and during the meeting I informed the other residents on the unit that I was being recommended to another facility and that if it is not successful by my court date that I will be going to jail. I expressed my concerns to them. The residents then on their own free will had a petition written up in my behalf with their signatures stating that I was not a problem but an asset to the community. These residents included male and female (See Exhibit A). I also wrote a letter pleading with Mr. Hargrove not to discharge me, that I was willing to make any adjustments regarding my lifestyle (Sexuality or transgender status) in order to remain at Phoenix House (See Exhibit B).

I gave these to the Senior Counselor and asked him to make copies of each for me. After making the copies I put the originals

in an envelope addressed to Mr. Hargrove. I then asked the Senior Counselor to deliver them to Mr. Hargrove. The counselor denied this and stated I will escort you to Mr. Hargrove's office and you can slide them under his door so he will get them personally when he gets in.

Later I requested to meet with Mr. Hargrove after not receiving any response from him. He then agreed to meet with me. During this meeting Mr. Hargrove stated to me that he did not have any doubts about my recovery or progress, he just feels that my being transgender and being in the appearance of a woman was going to cause problems at Phoenix House with other residents, and that he doesn't feel that Phoenix House could suit my needs.

I asked Mr. Hargrove was it because I wanted to attend female groups and identify as a female. He then explained that yes it is the main problem and he doesn't think that Phoenix House is the proper facility for me, that he has to take into consideration how the other residents are going to feel and react. I also asked did he receive the documents I put under his door. He stated yes and he showed them to me. At that point I asked to speak with someone of his superior and Mr. Hargrove then got upset and stated No you can not. I've already brought this to the attention of my supervisor and she supports his decision and that means the decision is final.

After speaking with Mr. Hargrove I began working with the Social Worker to find other suitable facilities but as she had stated my being multi-diagnosed mentally and physically my options were limited. So that was unsuccessful and on the night before my court date I was asked to pack my belongings because I was being discharged back into the hands of the court.

Due to the issues at hand this is where I am filing a claim of Federal Question for the defendants violation and deliberate, willful, malicious and unlawful discrimination of the U.S. Constitution Amendments IVX Section 1 Equal Protection (Sex or Sexual Orientation). This warrants because the defendants was considered "Other Correctional Facilities" and or providing services for the State or political jurisdiction according to the 42 U.S.C.A. § 1997.

Also under 1990 28 U.S.C.A. § 1367 (A) pendent claims and

supplemental jurisdiction the defendants discriminated against plaintiff in violation of the New York Human Rights Law (NYHRL) Executive Law § 296 (18)(2) is warranted because defendants discriminated against plaintiffs disability and also failed to make reasonable accomodations for plaintiffs disability Gender Identity Disorder (GID). GID is recognized as a disability under (NYSHRL).

Additionally, reasons for claim is plaintiff chose Phoenix House because of the web site SAMHSA.com which is a website for organizations providing services for individuals with substance abuse and mental health issues. Phoenix House is listed on this site and it specifies on advertisement lesbian and gay community excepted which are also grounds for additional claims of false advertisement.

v. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. For discrimination and violation of my civil rights as well as a loss of my liberty by causing my imprisonment and for my mental anguish I am seeking the courts to award me compensation and punitive damages in the amount of 5 million dollars and I also seek that the courts so order that all Phoenix House staff receive training in transgender care and sensitivity.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 3rd day of January, 2011.

Signature of Plaintiff

Mailing Address

Mohawk Correctional Facility

6100 School Rd., P.O. Box 8451

Rome, New York 13442-8451

Telephone Number

Fax Number (if you have one)

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this 3rd day of January, 2011, I am delivering this complaint to prison authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Exhibit A

Mr. Sydney Hargrove
Director
Phoenix House Program
50 Jay Street
Brooklyn

Dear Sir:

It has come to the attention of the members of the Induction Unit of this house that one of our peers, Sabire Wilson is to be recommended elsewhere on the grounds that this unit is unable to address his needs.

Though fully cognizant of your right to make this decision, we the undersigned respectfully disagree with this assessment and request that you reconsider this decision on the following grounds:

1. Mr. Sabire Wilson is an addict in need of the unique services of Phoenix House.

2. Mr. Sabire Wilson has become a valued member of this unit who has consistently extended help to incoming clients.

3. Mr. Sabire Wilson has earned the respect of the community for the efficient and even-handed execution of his duties.

4. Mr. Sabire Wilson has displayed an evenness of temperament that has defused difficult situations and served as an example to the unit.

Again, we respect your right to make this decision and the considerable experience on which you base it, but we earnestly request that you reconsider.

Sincerely

1. Tamiko Batts

2. Shenda Yantes

3. Leanne Zole

4. Melodee Thorpe

5. Marlene Rodriguez

6. Toni Medina

7. Suzette Larosa

8. Ana Bermudez

9. Sabrina King

10. Howard

11 Zoilo Escobar 38 James Butler
12 ~~Frank Mardella~~
13 Robert Gion
14 John Duranino
15 James Moore
16 Armando Cardesa
17 Ismael Hernandez
18 Freddie Jones
19 Joseph Genovese
20 Steven Cherry
21 Lee C.
22 Steven Schantz
23 ~~ARRY LINC SZYLD~~
24 ~~Ermane Gabriel~~
25 ~~Dragon Zimmerman~~
26 ~~Reed Harley~~
27 ~~Al~~
28 Kenneth Lopez
29 Gregory Hill
30 Gabriel Rovino
31 ~~fredo Mora~~
32 ~~Rata Kenne~~
33 ~~Tommy Usrey~~
34 ~~DEON EZELL~~
35 ~~Carlos Salgado~~
36 ~~Michael Gonzalez~~
37 ~~Andres Diaz~~

Mr. Sydney Hargrove
Director
Phoenix House Program
50 Jay Street
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3. Mr. Sabire Wilson has earned the respect of the community for the efficient and extra-faithful execution of his duties.

4. Mr. Sabire Wilson has displayed an evenness of temperament that has defused difficult situations and served as an example to the unit.

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Sincerely

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16 Armando Canales
17 Ismael Hernandez
18 Freddie Jones
19 Joseph Genovese
20 Steven Sherry
21 Lee C
22 Steve Schantz
23 Larry L. Neszyk
24 Romane Gabriel J. ~~Long~~
25 Deacon Hernandez
26 Fred Harley
27 ~~John~~
28 Kenneth Lopez
29 Gregory Hill
30 Gabriel Rosario
31 Jacobo Morales
32 Rata Kenne
33 Tommy Usrey
34 DEON EZZELL
35 Carlos Salgado
36 Michael ~~Franklin~~
37 Andre ~~Frank~~

Exhibit

B

1.13.09

Dear Sidney,

I am writing this letter to express to you how much my recovery means to me. I feel that since I been in Phoenix House the help of the counsellors as well as some of my experiences with my peers I've learned that I cannot control the way others feel. I have learned ~~not~~ to control my actions when feeling upset, or impatience with myself or others. Since being here I have shown an enormous amount of growth by not lashing out at any situation that made me angry. I've found other methods of dealing with my anger, and impulses. I understand that my past is not so good. Besides Palladio I ~~had~~ have not been in any other facility in at least 5 years. At that time in my life I wasn't ready to change ~~to change~~ anything about myself. At this point in time I am truly motivated to work this program to the fullest extent to accomplish my dreams of becoming a counsellor who can possibly prevent people like myself from making the choices I've made in life.

I am willing to bend and work with Phoenix House regarding any issues or conflicts that arrise due to my lifestyle in order to get treatment. I need for my addiction and ways of living. I am truly grateful for you taking the chance with me knowing my situation. I also would like to point out how I have been up holding the responsibilities of a very intense student position, and a very big participant in all groups. Also since being here I have come to grips with blaming people in my life for my actions and there reprecaution. I am beginning to see more + more my role in the way my life has been. If I am not excepted to any other program I don't know where to go from here. Phoenix House has been a great help so far and I would like to truly continue my treatment here. I can see my life on a better path of being successful with the help of Phoenix House. Please allow me to continue my treatment here at Phoenix House.

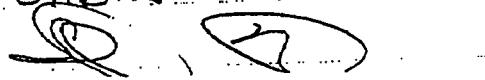
Sincerely yours
SABINE WILSON


1.13.09

Dear Sidney,

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Sincerely Yours
SABINE WILSON


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Sabire Wilson : Case No. 10CIV.7364
- Petitioner - Plaintiff : CERTIFICATE OF SERVICE - MAILING
- v - : U.S. District Court SDNY
Phoenix House : Pro Se Office
- Defendant - : Person Served

I, the undersigned, certify:

I, am the above-named Petitioner-Plaintiff in this matter, I am over
eighteen years of age.

On 13N, 03, 2011, I served the attached Amended Complaint + copy of
Service + Exhibits A + B on the above named person served by placing a copy
thereof in an envelope, properly addressed to them at their office, located
at 500 Pearl St. Rm 230 N.Y. N.Y. 10007 which is the
last known address to me, and the envelope was deposited by me in the official
depository of the United States Postal Service, said box under the exclusive
care of New York Department of Correctional Service at Mohawk Correctional
Facility, 6100 School Road, P.O.Box 8451, Rome, New York 13442-8451, said box
is established for the purpose of mailing correspondence.


(Sign)

Sabire Wilson 09A6193
(Print Name and DIN#)

I declare under penalty of perjury that the foregoing is true and correct
pursuant to 28 U.S.C.A. § 1746(2).



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEMORANDUM
Pro Se Office

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14

To: The Honorable Denise Cote, U.S.D.J.

From: R. Marmolejos, Pro Se Office Writ Clerk, x0177

Date: January 7, 2011

Re: Wilson v. Phoenix House, et al., No. 10 Civ. 7364 (DLC)

The attached document, which was received by this Office on January 6, 2010 has been submitted to the Court for filing. The document is deficient as indicated below. Instead of forwarding the document to the docketing unit, I am forwarding it to you for your consideration. See Fed. R. Civ. P. 5(d)(2)(B), (4). Please return this memorandum with the attached papers to this Office, indicating at the bottom what action should be taken.

No original signature.

No affirmation of service/proof of service.

The document appears to be a request in the form of a letter.

Other: Certificate of service states that the Court was served.

ACCEPT FOR FILING

RETURN TO *PRO SE LITIGANT*

Comments:

Denise Cote
United States District Judge

1/14/11

United States Magistrate Judge

Dated: